

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 11-00228-01-CR-W-GAF
)	
ANTHONY FALCO, JR.,)	
)	
Defendant.)	

ORDER

On December 5, 2013, the Government filed a Second Motion Pursuant to 18 U.S.C. § 4241(d) for a Psychiatric or Psychological Examination of Defendant Anthony Falco, Jr. Pursuant to 28 U.S.C. § 4246(b). On December 10 and 16, 2013, defense counsel filed responses to the Government’s 4246(b) motion.

On December 12, 2013, the parties filed a Joint Stipulation to Forensic Evaluation (Doc. #65). The parties stipulated that if the Court were to hold a hearing, Dr. Sarah Ralston and Dr. Maureen Reardon would testify consistently with their Forensic Evaluation, filed December 4, 2013 (Doc. #62). Further, the parties stated that they had no additional evidence to present in regard to Defendant Falco’s present competency to stand trial. On December 10, 2013, defense counsel requested that the Court terminate its previously entered Order mandating forced medication of Defendant Falco, in light of the finding in the Forensic Evaluation that Defendant is not likely to be restored to competency in the foreseeable future (Doc. #64 at 5).

The only evidence before the Court on the issue of Defendant’s competency after an attempt to restore competency through the involuntary administration of medication is the Forensic Evaluation. Dr. Ralston and Dr. Reardon found that Defendant “remains not competent

to stand trial” and “it is unlikely that continued treatment with antipsychotic medication would restore Mr. Falco’s competency to stand trial in the foreseeable future.” (Doc. #62 at 7).

On December 20, 2013, United States Magistrate Judge Sarah W. Hays issued her Report and Recommendation. (Doc. #69).

Upon careful and independent review of the record, as well as the applicable law, and there being no objections filed to the Report and Recommendation, this Court hereby adopts and incorporates as its own Opinion and Order the Report and Recommendation of United States Magistrate Judge Sarah W. Hays.

Accordingly, it is

ORDERED that Defendant Anthony Falco, Jr. remains incompetent in that he is presently suffering from a mental disease or defect rendering him unable to understand the nature and consequences of the proceedings against him or properly assist in his defense.

IT IS FURTHER ORDERED that the involuntary administration of medication to Defendant Falco is to be discontinued immediately.

IT IS FURTHER ORDERED that under 18 U.S.C. §§ 4241 and 4246, the Defendant Falco remain in the custody of the Attorney General at the Federal Medical Center in Butner, North Carolina, so that Defendant Falco may be further examined to determine whether his release would create a substantial risk of bodily injury to another person or serious damage to property of another. Said examination shall, under 18 U.S.C. §§ 4247(b), be conducted within 45 days, and may be extended an additional 30 days upon a showing of good cause that additional time is necessary to observe and evaluate the Defendant.

IT IS FURTHER ORDERED that the director of the Federal Medical Center in Butner, North Carolina, shall evaluate and determine whether to certify pursuant to 18 U.S.C. § 4246 that Defendant Falco is presently suffering from a medical disease or defect as a result of which his release would create a substantial risk of bodily injury to another person or serious damage to property of another, and that suitable arrangements for State custody and care of the person are not available.

IT IS FURTHER ORDERED that upon a finding by the director of the Federal Medical Center in Butner, North Carolina, that Defendant Falco meets the standards for certification under 18 U.S.C. § 4246, such a certification shall be made and a copy of that certification shall be sent to the clerk of the court for the district in which Defendant Falco is confined as directed under 18 U.S.C. § 4246.

SO ORDERED.

s/ Gary A. Fenner
GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: January 13, 2014